

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America)

v.)

Bernardo Villalba-Quiterio)
a/k/a "Bernardo Villalba-Quiterio,")
and "Fernando Bustos")

Case No.

2:18-MJ-1030

FILED IN OPEN COURT
ON 6-28-18
Peter A. Moore, Jr., Clerk
US District Court
Eastern District of NC SDF

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 21, 2018 in the county of Tyrrell in the
Eastern District of North Carolina, the defendant(s) violated:

Code Section

8 U.S.C. § 1326(a)

Offense Description

The defendant, an alien, was found in the United States after having previously been denied admission, excluded, deported and removed from the United States on January 14, 2010, at Laredo, Texas, and again on February 11, 2010, at Brownsville, Texas, and not having obtained the express consent of the Attorney General, or his successor, the Secretary of Homeland Security, to reapply for admission thereto.

This criminal complaint is based on these facts:

please see attached affidavit

☒ Continued on the attached sheet.

Complainant's signature

Frederick Tarry, Deportation Officer, ICE

Printed name and title

On this day, Frederick Tarry

appeared before me, via reliable electronic means, was
placed under oath, and attested to the contentsof this Complaint, and signed the complaint
in my presence.
Date: 6/29/18

Judge's signature

City and state: Greenville, North Carolina

KIMBERLY A. SWANK, U.S. Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

AFFIDAVIT

1. I, Frederick Tarry, having been duly sworn, do hereby depose and state: I am a Deportation Officer with the Department of Homeland Security, Immigration and Customs Enforcement (ICE), formerly known as the Immigration and Naturalization Service (INS), assigned to the Raleigh, North Carolina office. I have been employed by ICE for over 11 years, since September 17, 2006. My duties routinely include the investigation of violations of the federal criminal statutes concerning immigration offenses, including the reentry of illegal aliens into the United States.

2. This affidavit is submitted as evidence of probable cause supporting the arrest warrant for Bernardo Villalba-Quiterio, also known as "Bernardo Villazba-Quiterio," and "Fernando Bustos" (here after referred to as "VILLALBA") for reentry by an alien previously removed in violation of Title 8 U.S.C. § 1326(a). This affidavit does not set forth all information known to your affiant about this case and is being submitted for the purpose of providing sufficient information to establish probable cause.

3. In the course of investigating this matter, I have obtained information through law enforcement channels and the official Alien File (A-File) numbered A089 953 297. This file is maintained in the name of Bernardo Villalba-Quiterio and contains this individual's

biographical information, family history, records of encounters with ICE, conviction records, photographs and fingerprints. Based on the review of documents from this A-File, I have concluded that it does in fact pertain to the defendant in this matter.

4. The A-File reflects the following information relative to this individual:

- a. VILLALBA is a citizen and national of Mexico.
- b. His date of birth is XXX XX, 1988, and his name is correctly reflected in this affidavit and the complaint to which it is attached.
- c. VILLALBA, on an unknown date, entered the United States at an unknown place, and was not inspected or admitted by an immigration official.
- d. VILLALBA was, on October 6, 2008, convicted in the Guilford County, North Carolina Superior Court for Common Law Robbery, and sentenced to 10 to 12 months incarceration, Attempted Common Law Robbery, a felony, and sentenced to 5 to 6 months incarceration.
- e. VILLALBA was, on October 20, 2009, encountered by ICE at the Dan River Prison Work Farm in Yanceyville, North Carolina, and identified as a removable alien based upon a voluntary sworn

statement and record checks.

- f. VILLALBA was, on January 6, 2010, ordered removed from the U.S. to Mexico by an immigration judge at Atlanta, Georgia.
- g. VILLALBA was, on January 14, 2010, removed from the U.S. to Mexico at Laredo, Texas, after he was warned of the penalties for reentry, per Form I-294.
- h. VILLALBA, of his own volition, reentered the United States on an unknown date at an unknown place, and did so without obtaining the express consent of the Attorney General, or his successor the Secretary of Homeland Security, to reapply for admission.
- i. VILLALBA was, on January 22, 2010, encountered by ICE agents pursuant to a vehicle stop by local law enforcement in Warren County, Mississippi, and identified as a previously removed alien by a voluntary sworn statement and biometric match. The prior order of removal was reinstated.
- j. VILLALBA was, on February 11, 2010, removed from the U.S. to Mexico at Brownsville, Texas, after he was warned of the penalties for reentry, per Form I-294.
- k. VILLALBA, of his own volition, reentered the United

States on an unknown date at an unknown place, and did so without obtaining the express consent of the Attorney General, or his successor the Secretary of Homeland Security, to reapply for admission.


5. A search of ICE databases reveals that VILLALBA did not seek permission of the United States Attorney General to reenter as required by 8 U.S.C. § 1360(d).


6. On April 21, 2018, VILLALBA was arrested for Speeding, Driving While License Revoked, Driving While Impaired, and Simple Possession of a Schedule IV Controlled Substance in Tyrrell County, North Carolina by a Tyrrell County Sheriff's Deputy with the assistance of a North Carolina State Trooper. A complete set of fingerprints were taken and submitted to DHS and FBI databases resulting in a positive biometric match for a previously removed alien. ICE was notified of VILLALBA's presence in the U.S. by a phone call from the Trooper which was confirmed by an Immigration Alien Response generated by the biometric match. VILLABLA was booked into the Dare County Jail, and an ICE detainer was lodged with the jail.


7. On June 14, 2018, VILLALBA was convicted in the Tyrrell County District Court for Driving While Impaired, and sentenced to 60 days incarceration. VILLALBA is currently in ICE custody at the Wake County Detention Center pending removal.

8. Based on all the foregoing, I, Frederick Tarry, believe that there is ample probable cause to conclude that Bernardo Villalba-Quiterio is in fact guilty of illegal reentry into the United States by an alien previously removed in violation of Title 8 U.S.C. § 1326(a), and respectfully ask that the Court issue a warrant ordering his arrest for such crime.

Further your Affiant sayeth not.


Frederick Tarry
Deportation Officer
Immigration & Customs Enforcement

On this 28th day of June 2018, Deportation Officer Frederick Tarry appeared before me, ~~via reliable electronic means,~~ was placed under oath, ~~and~~ attested to the contents of this affidavit, ~~and~~ *signed it in my presence.* 


KIMBERLY A. SWANK
United States Magistrate Judge
Eastern District of North Carolina